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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,238	02/26/2004	Phillip L. Lam	PERFECT-1/CIP-2	7970
1054 7590 09/17/2007 LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION 17961 SKY PARK CIRCLE, SUITE 38-E IRVINE, CA 92614			EXAMINER MICHALSKI, SEAN M	
			ART UNIT 3724	PAPER NUMBER
			MAIL DATE 09/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/789,238	Applicant(s) LAM, PHILLIP L.	
	Examiner Sean M. Michalski	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5 and 13-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

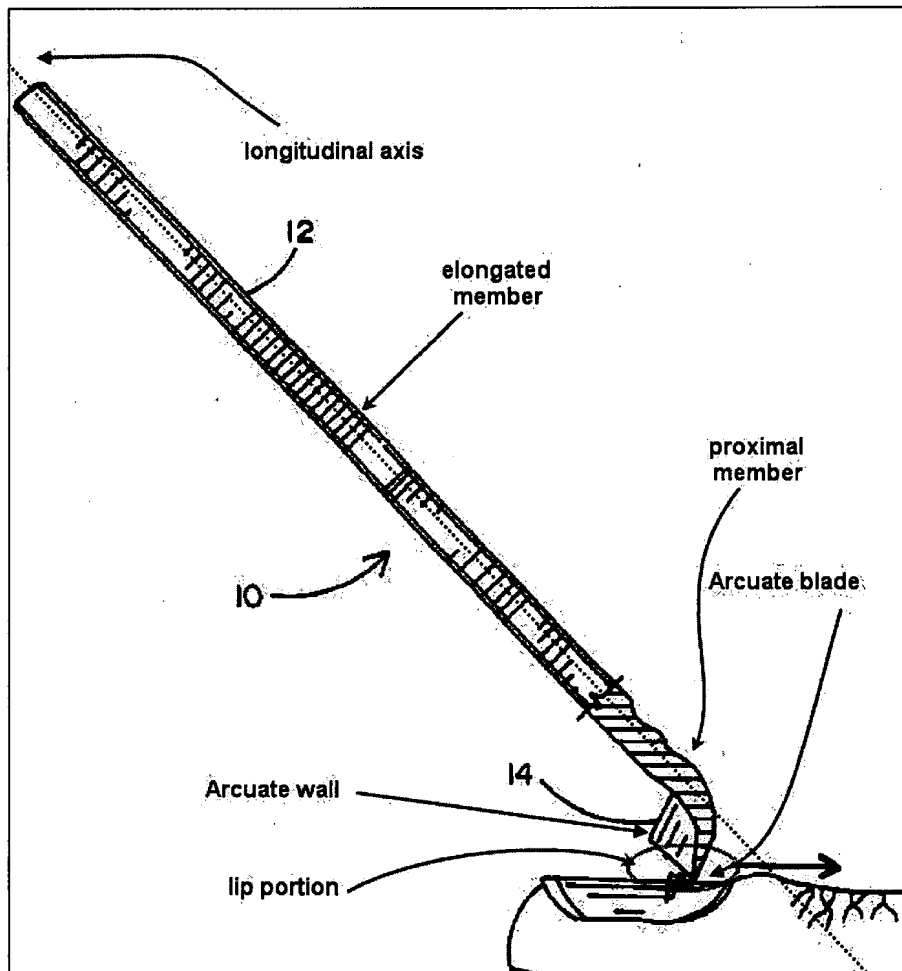
Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2,3, and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baltierra (US 5,755,239) in view of Singer (US 6,289,901 B1), Hart and Henkel.

Baltierra teaches a manicuring tool with a proximal member and a longitudinally extending elongated member (seen below), the proximal member having an arcuate wall and an arcuate blade, both extending transverse (across) to the longitudinal direction of the longitudinally extending elongated member axis (the axis of the entire tool, and of the proximal member is a horizontal member) of the proximal member. Also see the figure below:



Although the claim limitation “releasably coupled” does not preclude Baltierra (since the proximal and distal members thereof could be sawed off- thus they are releasably coupled), in order to advance prosecution, this interpretation will not be relied on.

The term “lip portion” is met by Baltierra as seen above, since Tthe standard of claim interpretation during prosecution is as follows: “claims in a pending application should be given their broadest reasonable interpretation” consistent with the specification and prior art. In re Pearson , 181 USPQ 641 (CCPA 1974). See additionally MPEP 904.01, and also In re Morris, 127 F.3d 1048, 44 USPQ2d 1023

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(Fed. Cir. 1997). It has been established that during examination, where applicant has the ability to amend claims, the standard of claim interpretation is that the broadest reasonable interpretation be given to all the terms of a claim, *absent a specific definition provided in the specification*, which would then control.

Baltierra does not teach a distal tool at a second end of the elongated member (handle).

It is common in the manicuring arts to provide tools at both ends, commonly some pairing from among, pushers, cutting tools, emory boards or cones, or other tools. (see Singer, Hart, and Henkel; among others)

It would have been obvious to include a distal member that was any one of a pusher, cutting tool, emory board or cone, since providing a second tool on the same handle is more cost effective and convenient than providing each tool with a separate handle.

It is also common in the manicuring arts to provide for the removal of proximal and distal members. See Singer et al. which teaches a proximal member (26) that is screwed onto(figure 6) or into (figure 2; figure 3) a handle (elongated member) with a tool (28) affixed on the proximal member. Singer also teaches a distal member (36 figure 1) that is releasably coupled by screw threads (figure 2; figure 4) to the same elongated member as the proximal member. It is clear from Singer that the working tool is removed from the proximal member which may be viewed as an adaptor. That is the provision of the implement is for "an implement having a connecting portion and a working portion" column 2 lines 4-5. See also column 23 and 24 which state that "other

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implements may also be employed with the elongated handle" meaning implements other than emery cones and/or nail scrapers.

It would have been obvious to one having ordinary skill in the art to provide both the proximal and distal members of Balthierra in view of Hart, Henkel or Singer with the provision of releasable coupling of a connecting portion (proximal member) and a working portion (blade), so as to ensure that multiple sizes or shapes or styles of manicuring implements may be affixed to a common handle, since this represents a cost savings over the provision of a number of different tools with integral handles.

Regarding claim 3, Singer shows that there is a removable "an implement having a connecting portion and a working portion" being removable from an elongated member (column 2 lines 4-5). The working portion is also removable from the connecting portion (see figure 3).

It would have been obvious to one of ordinary skill in the art to make the blade of Balthierra in view of Hart, Henkel and Singer be removable from the proximal member (analogous to the working portion of singer being removable from the connecting portion) since as a working portion is used it becomes worn down, and replacing only the working portion of a proximal member saves material which in turn lowers the long term cost of using the tool.

Regarding claim 5, See specifically Hart, 'I' which is a pusher—see column 1 line 51-54 and column 2 lines 91-93.

Also see Henkel element 12, which is clearly a pusher. Other references showing pushers as common tools in the art are readily available.

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It would have been obvious to one of ordinary skill in the art to have the distal member of Balthierra be a pusher member since a pusher member is a commonly desired manicuring tool, and having the distal member be a pusher will save time during a manicuring process since it eliminate the need to pick up a second tool- only rotate the tool already in a manicurists hand; and cost, since no second handle will need to be provided to utilize a pusher.

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baltierra (US 5,755,239) in view of Singer (US 6,289,901 B1), Hart and Henkel. as applied to claims 2,3,5 and 13-16 above, and further in view of Grigoletto (US 5,620,455).

Regarding claim 4, Singer discloses that the working portion is "removably mounted on the connecting portion...in any suitable manner..." (column 4 lines 47-48).

Art recognized equivalent ways of attaching include screws, friction fit, snap fit tabs or "retention caps". Examiner takes official notice that one of ordinary skill in the art would have been capable of effecting any one of these connections for the connection of a blade to a connecting member, or a connecting member to a handle.

Grigoletto teaches the use of a retention cap (18 figures 2 and 4) for retaining a blade on another component of a manicure tool (specifically a multifunctional manicure tool).

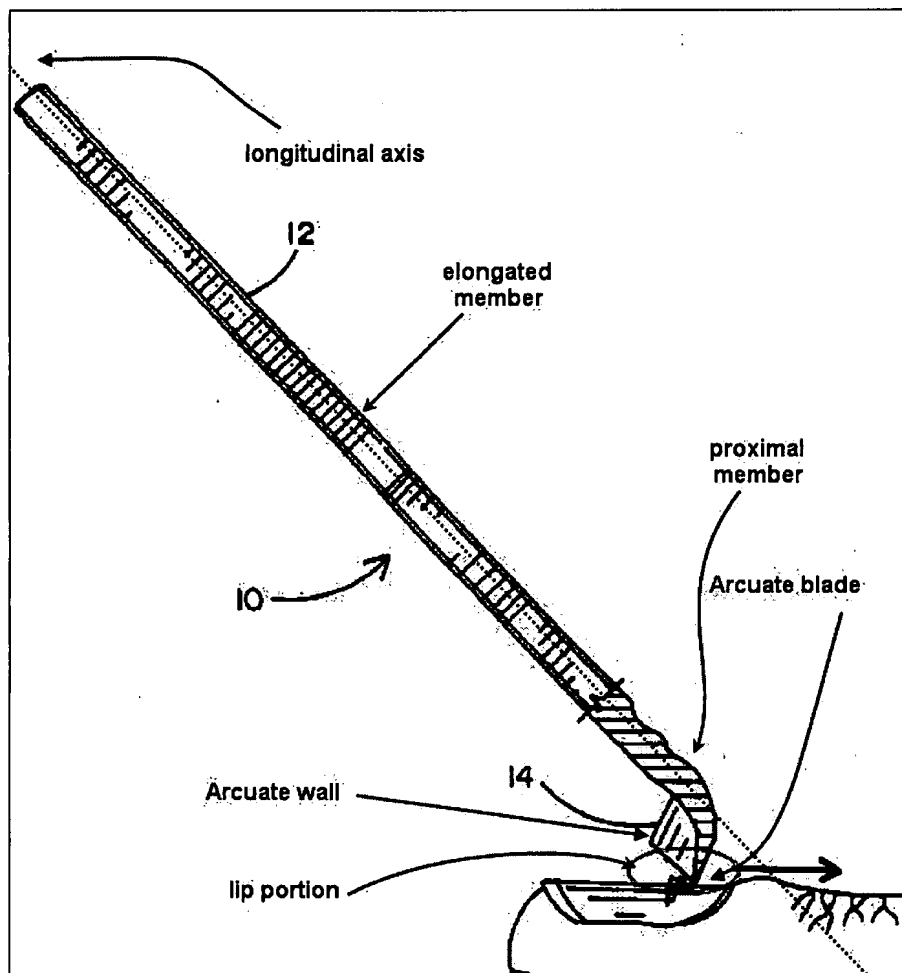
It would have been obvious to one of ordinary skill in the art at the time of the invention to use a slide on blade with retention cap mechanism for attachment of the

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blade as taught by Grigoletto, instead of the screw in attachment method of attaching a blade as in the combination of Baltierra (US 5,755,239) in view of Singer (US 6,289,901 B1), Hart and Henkel; since manipulating a blade to screw it into a screw-hole (rotating an exposed blade surface) is more dangerous than using a retention cap mechanism which requires no turning over of the exposed blade in order to effect the connection. Additionally and alternatively, retention cap connections are art recognized equivalents with screw connections of blades.

Claims 2-5 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baltierra in view of Singer (US 6,289,901 B1) in view of either one of Hart (1,476,508) and Henkel (1,113,168) further in view of Volinsky (US 5,342,379) and Parmley ("Plastic Snap Fit..." pp. 20-28 and 20-29).

Baltierra teaches a manicuring tool with a proximal member and a longitudinally extending elongated member (seen below), the proximal member having an arcuate wall and an arcuate blade, both extending transverse (across) to the longitudinal direction of the longitudinally extending elongated member axis (the axis of the entire tool, and of the proximal member is a horizontal member) of the proximal member. Also see the figure below:



Although the claim limitation "releasably coupled" does not preclude Baltierra (since the proximal and distal members thereof could be sawed off- thus they are releasably coupled), in order to advance prosecution, this interpretation will not be relied on.

The term "lip portion" is met by Baltierra as seen above, since Tthe standard of claim interpretation during prosecution is as follows: "claims in a pending application should be given their broadest reasonable interpretation" consistent with the specification and prior art. In re Pearson , 181 USPQ 641 (CCPA 1974). See additionally MPEP 904.01, and also In re Morris, 127 F.3d 1048, 44 USPQ2d 1023

(Fed. Cir. 1997). It has been established that during examination, where applicant has the ability to amend claims, the standard of claim interpretation is that the broadest reasonable interpretation be given to all the terms of a claim, *absent a specific definition provided in the specification*, which would then control.

Baltierra does not teach a distal tool at a second end of the elongated member (handle).

It is common in the manicuring arts to provide tools at both ends, commonly some pairing from among, pushers, cutting tools, emory boards or cones, or other tools. (see Singer, Hart, and Henkel; among others)

It would have been obvious to include a distal member that was any one of a pusher, cutting tool, emory board or cone, since providing a second tool on the same handle is more cost effective and convenient than providing each tool with a separate handle.

It is also common in the manicuring arts to provide for the removal of proximal and distal members. See Singer et al. which teaches a proximal member (26) that is screwed onto (figure 6) or into (figure 2; figure 3) a handle (elongated member) with a tool (28) affixed on the proximal member. Singer also teaches a distal member (36 figure 1) that is releasably coupled by screw threads (figure 2; figure 4) to the same elongated member as the proximal member. It is clear from Singer that the working tool is removed from the proximal member which may be viewed as an adaptor. That is the provision of the implement is for "an implement having a connecting portion and a working portion" column 2 lines 4-5. See also column 23 and 24 which state that "other

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implements may also be employed with the elongated handle" meaning implements other than emery cones and/or nail scrapers.

It would have been obvious to one having ordinary skill in the art to provide both the proximal and distal members of Balthierra in view of Hart, Henkel or Singer with the provision of releasable coupling of a connecting portion (proximal member) and a working portion (blade), so as to ensure that multiple sizes or shapes or styles of manicuring implements may be affixed to a common handle, since this represents a cost savings over the provision of a number of different tools with integral handles.

Balthierra in view of Singer in view of Hart and Henkel does not teach specifically, that the removable portions (**proximal and distal**) be separable by a pair of apertures at each disconnection point, or that there are a pair of probes protruding from the second end of the proximal member (the member having the blade) and distal member (the member having the pusher), each probe having a securing tab projecting therefrom, wherein the pair of probes is received in said hollow cavity and each tab is received in respective apertures when the proximal or distal member is coupled to the elongated member (respectively).

Volinsky discloses a releasable proximal portion (20 figure 1) which carries a blade at the first end (seen clearly in figure 1) and has two probes (66 figure 1) with two respective tabs (68 figure 1) which may be inserted into respective hollow cavities (16 figure 1) with respective apertures (18 figure 1). The tabs may also be called retention caps.

Parmley teaches that snap-fit connections are applicable to a wide variety of mechanical connections and there are generic formulas that are useable by one of ordinary skill in the art. Parmley is a generic reference showing the level of sophistication that would be held by one of ordinary skill in the art in the selection and application of snap-fit connections. Parmley also indicated some extremely persuasive reasons to select a snap-fit *above* other connectors, such as press fit (as seen in Hunter et al. above) screw fit (also shown in Hunter et al.) and a sonic weld (another known connection). See lines 12-15 of the first column on pp. 20-28. Parmley also shows a common snap-fit connection between two components in the figure on pp 20-28, where the land angle is 30 degrees and the return angle is 90 degrees, and the part with the two "probes" is inserted into a single cavity, that has two apertures for each of the tabs respectively at the end of each probe (to use applicants terminology). Clearly the use of dual probe, with dual tab, connections is known *generally* (Parmley) in addition to within the art (Volinsky).

In the same field of invention it would have been obvious to one skilled in the art at the time of the invention to modify Baltierra in view of Singer in further view of either Hart or Henkel by providing for removability of both the proximal member (connecting portion from Singer) and distal member (pusher) as taught by Volinsky. The motivation to combine is that in blood borne pathogen environments (such as surgery or manicure) disposal of the portions of equipment which come into contact with blood or other human fluids is desirable, and in some locations legally mandatory. By using a cartridge and permanent handle, waste is minimized, since the permanent handle may be

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reused, while the cartridge may be disposed of. This configuration "reduce[s] cost and decrease[s] medical waste" (column 1 lines 52-54). Additionally, separability by tab/probe configuration is desirable above screw on (which can loosen through vibration) and press fit (since that depends on friction and strain to maintain hold), whereas a snap fit can be designed to have "a pull-out force...hundreds of times larger than the push-in force." (Parmley column 1 lines 17-19), which is desirable since it prevents unwanted disconnections.

Response to Arguments

4. Applicant's arguments filed 08/03/2007 have been fully considered but they are not persuasive. The arguments as a whole are moot in view of the new grounds of rejection presented above.

Balthierra does not fail to disclose that the blade extends in a direction transverse to the longitudinal direction, as clearly seen in figures 3 and 4. The longitudinal direction in those figures is up/down and the blade extends from the left to the right, crossing (and therefore transverse to) the longitudinal direction. This should clearly meet the limitations of the claims. The standard of claim interpretation during prosecution is as follows: "claims in a pending application should be given their broadest reasonable interpretation" consistent with the specification and prior art. In re Pearson , 181 USPQ 641 (CCPA 1974). See additionally MPEP 904.01, and also In re Morris, 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997). It has been established that during examination,

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where applicant has the ability to amend claims, the standard of claim interpretation is that the broadest reasonable interpretation be given to all the terms of a claim, *absent a specific definition provided in the specification*, which would then control. Figure 6 also clearly shows the transverse nature of the blade of Balthierra.

The arguments against the references individually is not persuasive, since it is the combined teachings of the prior art, not a strict analysis of the individual references which determines the obvious or lack thereof, in accordance with the *flexible* Graham inquiries.

The allegation that the secondarily cited references “ are found to be ineffectual to the present patentability analysis.” (pp7 of applicants remarks dated 8/03/2007) is not supported by any legal reasoning or basis in fact or evidence. The allegation is given weight accordingly, and it is determined that the argument does not rebut the prima facie case of obviousness herein presented.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean M. Michalski whose telephone number is 571-272-6752. The examiner can normally be reached on M-F 7:30AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMM



KENNETH E. PETERSON
PRIMARY EXAMINER